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October 12, 1999

Ms. Annette L. Vietti-Cook
Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Attention: Rulemakings and Adjudications Staff

REFERENCE: Request for Comments on NRC's proposed rule on
"Requirements for Certain Generally Licensed
Industrial Devices Containing Byproduct Material,"
64 Federal Register 40295 (July 26, 1999)

Dear Ms. Vietti-Cook:

The Nuclear Energy Institute (NEI),¹ is submitting the following comments in response to the request for comments on the Nuclear Regulatory Commission's (NRC) proposed rule on "Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material," 64 Federal Register 40295 (July 26, 1999). NEI supports the efforts of the NRC to preclude the improper disposal of general license devices. As noted in the Federal Register Notice and the "Final Report of the NRC-Agreement State Working Group to Evaluate Control and Accountability of Licensed Devices" NUREG-1551, the devices that contain the greater quantities of radioactivity are those of principal concern. NEI agrees with this philosophy which is clearly consistent with the Commission's movement towards risk-informed regulation.

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¹ NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, materials licensees, and other organizations and individuals involved in the nuclear energy industry.

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We support the rule as drafted. This letter provides responses to the five questions raised in the Federal Register notice.

1. The Commission seeks comment on whether the registration requirement should include a provision that would require the general licensee to complete registration by a certain time, whether or not the NRC requests registration.

Response: The general licensee should be required to submit the registration information within a reasonable time period after the initial transfer of the device. If the general licensee has any devices that require registration in its possession and control on the effective date of this rule, the licensee should have six months to either submit the registration information or transfer the device to another approved licensee.

2. The Commission requests comment on whether it is appropriate for new devices obtained by registrants to be registered when the annual re-registration is carried out without the NRC having earlier contact after additional devices are received. Earlier contact could be made either by an acknowledgment by the NRC to the user or by a required response from the general licensee to account for the additional device(s).

Response: As indicated in response to question 1 the general licensee should be submitting the appropriate registration information within a reasonable time period after the initial transfer of the device. This would allow for prompt and continuous information on the devices. For device(s) the general licensee has in its position on the date the rule becomes effective, the general licensee has six months to either transfer the device(s) or to submit the registration information. Any device that is transferred during this time period would trigger a submittal of registration information by the new possessor of the device.

3. The Commission solicits comment on whether general licensees should be required to assign a backup responsible individual (BRI).

Response: The general licensee should have an officer of the organization who is accountable for registered devices under the organization's control. The officer need not be the backup responsible individual (BRI) responsible for knowing the regulations. However, this individual should be knowledgeable of the devices that are in the general licensee's control and should be responsible for authorizing the transfer of registered devices to other licensee(s).

4. The Commission seeks comment on how best to achieve and enforce the intent that full disclosure of information required to be provided to general licensee

customers by distributors be made early enough to be considered in a decision to purchase. For example: Would it be better to use the words, "prior to purchase" in the regulatory text?

Response: Full disclosure is the norm in the United States. Therefore, the distributor should provide the required information as part of the proposal to the general licensee. In addition, the general licensee should be permitted to return a device to the distributor within a fixed period of time if the general licensee believes it did not fully understand the responsibilities of device ownership prior to the purchase.

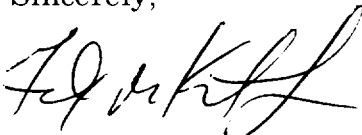
5. The Commission seeks comments on the advantages and disadvantages of implementing a national database of general licensees and their devices.

Response: NEI supports the concept of a national database for devices that require registration. The list needs to be comprehensive and include the devices that are regulated by the Agreement States. NEI recommends that the database include: type of device, manufacturer's name, model number, serial number, and registered general licensee. In addition, general licensees should have the option to add to the database other devices that do not require registration.

This national registry would provide one location for tracking the owners of any devices that are found and for obtaining background information on any devices that are lost or stolen. The database should be publicly accessible and searchable in a read only mode. It would provide ready access to state and local officials in tracking or locating owners of devices. The major difficulty with the database would be maintaining it.

We will respond to any questions or comments the NRC may have.

Sincerely,



Felix M. Killar, Jr.